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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

1. The Committee considered the third periodic report of the United Kingdom of Great Britain and Northern Ireland on the rights covered by articles 1 to 15 of the Covenant (E/C.12/1994/19) at its 36th to 38th meetings, held on 24 and 25 November 1997, and adopted 1/ the following concluding observations.

A. Introduction

2. The Committee notes that the report submitted by the State party has been prepared in accordance with the Committee's guidelines. It welcomes the presence of a large and high-level delegation from the United Kingdom of Great Britain and Northern Ireland and notes that the very high quality of the dialogue was enhanced by the presence of a specialist to deal with virtually every article of the Covenant. It further appreciates the extensive and detailed replies to the Committee's list of questions which greatly facilitated the dialogue. The Committee observes with satisfaction that the information provided in the third periodic report, and in reply to both written and oral questions, enabled it to obtain a comprehensive view of the extent of the State party's compliance with its obligations under the International Covenant on Economic, Social and Cultural Rights.

1/ At its 53rd meeting, held on 4 December 1997.

B. Positive aspects

3. The Committee notes the extensive and elaborate administrative infrastructure that exists in the United Kingdom of Great Britain and Northern Ireland to facilitate giving effect to the provisions of the Covenant.

4. The Committee welcomes, in particular, the following new initiatives of the British Government:

(a) The "welfare to work initiative" designed to provide enhanced opportunities for sustained employment and to break prolonged dependency on welfare;

(b) The proposal to enact the European Convention on Human Rights into domestic legislation, which constitutes a considerable departure from the traditional approach not to incorporate international human rights treaties in United Kingdom domestic law.

5. The Committee also takes note of the following initiatives:

(a) The proposal to introduce a national minimum wage, which the Committee hopes will give due regard to the value of work and an employee's ability to enjoy the right to an adequate standard of living;

(b) The commitment of the Government to ratify the Treaty of Amsterdam, and the resulting application of the European Social Charter in the State party;

(c) The proposal for a "new deal" to give positive support to employment through Training and Enterprise Councils, and job subsidies to the private sector to provide additional employment opportunities, with increased targeting of ethnic minorities who suffer from above average rates of unemployment;

(d) The establishment of the Disability Rights Commission to address issues of the rights of the disabled; and

(e) The new policy for a programme of lifelong learning which should, in particular, target persons in the State party who are functionally illiterate.

6. The Committee notes that significant progress has been made to meet the educational needs of the travellers communities and gypsies.

7. The Committee welcomes the adoption of the Hong Kong Order 1997 which entitles Hong Kong citizens who are not allowed to acquire Chinese nationality to receive United Kingdom citizenship.

C. Factors and difficulties affecting the implementation of the Covenant

8. The State party reported no specific factors or difficulties affecting the implementation of the Covenant. The Committee noted, however, that because of the recent change of government, many questions were met with responses that indicated that new initiatives were under consideration, that an advisory group had been appointed to study various problems or that a "White Paper" was being prepared on a given subject. These answers, while understandable to a certain degree, nevertheless undermined to a significant extent the Committee's ability to evaluate the degree of compliance with certain provisions of the Covenant. Moreover, it became clear from the examination that economic and social difficulties continue to be faced by some of the most vulnerable segments of society, and that the Government's ability to alleviate these difficulties is impaired by its self-imposed budgetary constraints.

D. Principal subjects of concern

9. The Committee notes that despite the developed state of the United Kingdom economy and the progress that has been made to lower unemployment generally, there exist unacceptable levels of poverty among certain segments of the population in the State party, with particular respect to Northern Ireland. The economic benefits of recent gains in prosperity are unevenly distributed, with a significant widening of the gap between rich and poor as a result. In this respect, the Committee finds it disturbing that approximately 1 million persons do not apply for benefits to which they are entitled, and that the Government limits access to free legal aid with respect to a number of economic and social rights.

10. The Committee also finds disturbing the position of the State party that provisions of the Covenant, with certain minor exceptions, constitute principles and programmatic objectives rather than legal obligations, and that consequently the provisions of the Covenant cannot be given legislative effect.

11. The Committee considers that failure to incorporate the right to strike into domestic law constitutes a breach of article 8 of the Covenant. The Committee considers that the common law approach recognizing only the freedom to strike, and the concept that strike action constitutes a fundamental breach of contract justifying dismissal, is not consistent with protection of the right to strike. The Committee does not find satisfactory the proposal to enable employees who go on strike to have a remedy before a tribunal for unfair dismissal. Employees participating in a lawful strike should not ipso facto be regarded as having committed a breach of an employment contract. The Committee is also of the view that the legally accepted practice of allowing employers to differentiate between union and non-union members by giving pay raises to employees who do not join a union is incompatible with article 8 of the Covenant.

12. The Committee takes the view that despite the elaborate machinery and legislation for protection against discrimination, there continues to exist to a significant degree de facto discrimination against women, Blacks and other

ethnic minorities. The Committee notes that women continue to occupy a significantly lower percentage of managerial positions, particularly in the private sector, and a disproportionate percentage of lesser paid jobs and part-time work. It also notes the persistence of a substantially higher rate of unemployment among Blacks and other ethnic minorities and their disproportionate numbers in lesser paid jobs. The Committee is alarmed that the rate of unemployment among Catholics in Northern Ireland is approximately twice that of Protestants and is substantially above the national rate of unemployment.

13. The Committee is concerned about the condition of many children in the care of the Government, directly or indirectly, in spite of extensive legislative provisions on this subject. The report of Sir William Utting, "People Like Us", indicates a significant reduction in the number of children's homes with increased resort to placement in foster homes. The result of this change is reported to be an increasing incidence of child abuse in foster homes.

14. The Committee notes with concern the serious incidence of domestic violence against women which the State party has estimated at 680,000 cases in 1995, according to a national crime survey.

15. The Committee expresses its concern that waiting times for surgery can be 18 months or longer. In practice, this situation has worsened over the past six months and is of such a character as to call for immediate action. The continuation of this situation calls into question whether the State party has made its best efforts to satisfy the provisions of article 12 of the Covenant.

16. The Committee is alarmed by the fact that corporal punishment continues to be practised in schools which are privately financed, and at the statement by the delegation that the Government does not intend to eliminate this practice.

17. The Committee expresses its concern that homelessness is still a problem that has not been adequately addressed in the United Kingdom, and that vulnerable groups such as travellers and ethnic minorities do not receive sufficient protection against evictions.

18. The Committee expresses its concern that the educational structure in Northern Ireland is heavily segregated with most Protestants attending Protestant schools and most Catholics attending Catholic schools and only approximately 2 per cent of the school population attending integrated schools. The Committee is of the view that current government policy, which appears to consist of a willingness to consider the conversion of existing Protestant or Catholic schools into integrated schools if it is the wish of the majority in a given school, is ineffective and likely to preserve the status quo. This situation is particularly deplorable given that it has been reported that approximately 30 per cent of parents in Northern Ireland would prefer to send their children to integrated schools.

19. The Committee expresses its concern at the plight of the approximately 13,000 children permanently excluded from school and that a disproportionate number of these students are of African-Caribbean origin.

20. The Committee notes that the Irish language in Northern Ireland does not appear to receive the same degree of financial support and status as Gaelic in Scotland and Welsh in Wales, and expresses its view that such differentiation is unjustified.

E. Suggestions and recommendations

21. The Committee suggests that the State party take appropriate steps to introduce into legislation the International Covenant on Economic, Social and Cultural Rights, so that the rights covered by the Covenant may be fully implemented. It is encouraged that the State party has taken such action with respect to the European Convention on Human Rights and is of the view that it would be appropriate to give similar due regard to the obligations of the Covenant.

22. The Committee is of the view that social assistance should be more carefully targeted to alleviate poverty among the segments of the population in the United Kingdom of Great Britain and Northern Ireland who are suffering from long-term unemployment, those whose overall revenue is low (particularly in relationship to family size), and those who are unable to work. Particular attention should be directed at groups which are statistically disproportionately represented at or near the bottom of the income scale and who appear to have difficulty in moving up from the lowest income group. From the examination, it would appear that such groups would include at least the following: ethnic minorities, women, lone parents, children in vulnerable situations, the elderly, people with disabilities, and Catholics in Northern Ireland. The Committee urges the State party to make further efforts to extend benefits to the approximately 1 million persons who qualify and do not apply to receive them. It is of the view that a less restrictive policy on free legal aid for social and economic rights would facilitate access to these and other social and economic benefits.

23. The Committee recommends that the right to strike be established in legislation and that strike action no longer entail the loss of employment, and expresses the view that the current notion of freedom to strike, which simply recognizes the illegality of being submitted to an involuntary servitude, is insufficient to satisfy the requirements of article 8 of the Covenant. The Committee further recommends that the right of employers to grant financial incentives to employees who do not join unions be abolished.

24. The Committee recommends that the State party take more effective steps to combat de facto discrimination, particularly against Blacks and other ethnic minorities, women, and Catholics in Northern Ireland.

25. The Committee recommends that the State party reconsider its policy and procedures for placing large numbers of children in foster homes in light of the reported increase of abuse of children as a result of this policy, and examine the feasibility of greater use of effectively supervised children's homes if this would be in the best interest of the child.

26. The Committee requests the State party to update in its next report information on measures taken to combat the phenomenon of violence against women and update its analysis of which measures appear to yield the best results in dealing with this problem.

27. The Committee finds that the present waiting time for surgery is unacceptable and it therefore recommends that the State party take immediate steps to reduce it.

28. The Committee recommends that the State party take appropriate measures to eliminate corporal punishment in those schools in which this practice is still permitted, i.e. privately financed schools.

29. The Committee recommends that appropriate measures be considered in Northern Ireland to facilitate the establishment of additional integrated schools in areas where a significant number of parents have indicated their desire to have their children enrolled in such schools.

30. The Committee recommends that there be closer monitoring of the incidence of homelessness and forced evictions, and that statistics on these issues be provided in the State party's next periodic report, together with information regarding the steps taken to provide protection in accordance with the Committee's General Comment No. 7 on forced evictions.

31. The Committee recommends that uniform defined criteria be formulated for school exclusions, and that the State party report on what government programmes, if any, exist to facilitate the insertion of excluded young people into alternative training or apprenticeship programmes.

32. The Committee recommends that the same degree of support and status be given to the Irish language in Northern Ireland as to Gaelic in Scotland and Welsh in Wales.

33. The Committee recommends that consideration be given to the requirement that a human rights assessment or impact statement be made an integral part of every proposed piece of legislation or policy initiative on a basis analogous to environmental impact assessments or statements.

34. Finally, the Committee recommends that the concerns expressed in the present concluding observations, as well as the issues raised during the discussion of the third periodic report which remained unanswered, be addressed in the State party's fourth periodic report, and it urges the State party to disseminate widely the present concluding observations adopted by the Committee following its consideration of the State party's third periodic report.